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July 23, 2014

Honorable Vernon S. Broderick  
United States District Judge  
United States District Court for the Southern District of New York  
Thurgood Marshall  
40 Foley Square  
New York, NY 10007

**RE: SMG, et al. v. City of New York, et al.  
14-Civ-0815 (VSB)**

Dear Judge Broderick:

The City of New York submits this letter in advance of the July 25, 2014 teleconference concerning issues it wishes to raise, and hopefully resolve.

As the Court is aware, the undersigned counsel was recently substituted, and we are in the process of getting up to speed on this file. We recognize and appreciate plaintiffs' counsel's efforts to try to resolve this case by early settlement.

It would be helpful to us to have a brief extension of time to permit proper discovery responses to be prepared. If the parties are to sit down with Magistrate Judge Netburn within a reasonable time to try to resolve this case, it would make sense to extend the City's response and objection time to after that session. In any event, our liaison at the Administration for Children's Services is on vacation until August 5, 2014, so we need at least some time regardless.

With respect to affirmative discovery demands to plaintiffs, it is our hope to remain on a settlement footing until such time as we know that settlement is not possible. However, we do not want to be impaired by not serving discovery. Therefore, we do need to address the overall schedule for discovery.

We have been asked about whether there is a need to maintain cross-claims against co-defendant SCO. SCO's insurer has agreed to provide a defense to the City of New York, but only under a Reservation of Rights. Therefore, it is necessary to maintain cross-claims.

The co-defendant, SCO, has asked for leave to file a dispositive motion. Given that SCO is the City's "eyes and ears" as to what happens in the foster home, it is difficult to imagine that SCO might have grounds for a motion that the City, and City employees, would not share. Therefore, if SCO is given leave to make a motion, the City requests the opportunity to review it and determine whether such grounds are equally (or more) applicable to the City.

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Finally, upon taking over this file from Corporation Counsel, we reviewed the filed answer. We believe there are additional applicable affirmative defenses. We wish to address leave to file an amended answer during the call, and whether a formal application will be necessary.

May we thank the Court for its kind attention to this submission.

Very truly yours,



Bruce Strikowsky (BS-8791)  
For SCHNADER HARRISON SEGAL & LEWIS LLP

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All parties (*via ECF*)

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